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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
WAYWARD WINDS FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
WATER SERVICE IN COCHISE COUNTY,
ARIZONA.

DOCKET NO. W-20553A-08-0467

PROCEDURAL ORDER**BY THE COMMISSION:**

On September 8, 2008, Wayward Winds ("Wayward Winds" or "Company") filed with the Arizona Corporation Commission ("Commission") an Application for a Certificate of Convenience and Necessity ("CCN" or "Certificate") to provide water service in Cochise County, Arizona.

On October 1, 2008, the Commission's Utilities Division Staff ("Staff") notified the Company that its application was not sufficient pursuant to the Arizona Administrative Code ("A.A.C").

On November 7, 2008, Staff notified the Company that its Application is sufficient pursuant to the A.A.C.

Pursuant to a Procedural Order filed November 14, 2008, a hearing was held at the Commission's Tucson offices on January 23, 2009. At the hearing, the Commission learned the Notice of Hearing was not mailed to the property owners in the affected area, as directed in the November 14, 2008, Procedural Order.

IT IS THEREFORE ORDERED that Wayward Winds shall serve public notice of the hearing in this matter in the following form and style:

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Arizona Corporation Commission
DOCKETED

JAN 27 2009

DOCKETED BY

PUBLIC NOTICE OF HEARING ON APPLICATION BY
WAYWARD WINDS FOR A
CERTIFICATE OF CONVENIENCE AND NECESSITY
DOCKET NO. W-20553A-08-0467

On September 8, 2008, Wayward Winds ("Company") filed an application with the Arizona Corporation Commission ("Commission") for a Certificate of Convenience and Necessity ("Certificate"). If the application is granted the Company would be the exclusive provider of water service within the requested area, and would be required to provide service on the terms and conditions as established by the Commission.

The application is available for inspection during regular business hours at the offices of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and in Tucson, at 400 West Congress Street, Suite 218, Tucson, Arizona, and at the offices of the Applicant, [APPLICANT INSERT ADDRESS]. The application is also available on the Commission's website, www.azcc.gov, using the e-Docket link.

The Commission held a hearing on this matter on January 23, 2009, at 10:00 a.m. at the Commission's Tucson offices, but written notice was not mailed to property owners within the requested area. You are receiving this notice because you have been identified as a property owner in the affected area. As such, you have the right to file written comments concerning the application, request intervention, or request a hearing. You are not required to take any action. **Any written comments or requests for hearing should be filed with the Commission by February 13, 2009.**

The law provides for an open public hearing at which, under appropriate circumstances, interested persons may intervene in the proceedings and participate as a party. Persons desiring to intervene must file a written motion to intervene with the Commission and send such motion to Applicant or its counsel and to all parties of record. The motion must, at the minimum, contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different from that of the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer or potential customer of the Applicant, a member or shareholder of the Applicant, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicant or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that **all motions to intervene must be filed on or before February 13, 2009.** If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Arizona Corporation Commission's webpage at <http://www.azcc.gov/utility/forms/index.htm>. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. **However, failure to intervene will not preclude any customer from appearing at the hearing and making a statement on such customer's own behalf.**

1
2 If you have any questions about this application, you may contact Applicant at
3 [APPLICANT insert contact name, address and telephone number]. If you want
4 further information on intervention or have questions on how to file comments, or
5 request a hearing, you may contact the Consumer Services Section of the Commission
6 at 1200 West Washington Street, Phoenix, Arizona 85007 or call 1-800-222-7000 or
7 (520) 628-6550. All correspondence should reference Docket No. W-20553A-08-
8 0467.

9
10 The Commission does not discriminate on the basis of disability in admission to its
11 public meetings. Persons with a disability may request a reasonable accommodation
12 such as a sign language interpreter, as well as request this document in an alternative
13 format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number
14 602/542-3931, E-mail: SBernal@azcc.gov. Requests should be made as early as
15 possible to allow time to arrange the accommodation.

16
17 IT IS FURTHER ORDERED that Wayward Winds shall mail to each property owner in the
18 requested service territory a copy of this notice by first-class U.S. Mail, to begin as soon as possible
19 and to be completed on or before **January 30, 2009**.

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21 IT IS FURTHER ORDERED that Wayward Winds shall file a certification of mailing of the
22 above notice on or before **February 6, 2009**.

23
24 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing,
25 notwithstanding the failure of an individual customer to read or receive the notice.

26
27 IT IS FURTHER ORDERED that intervention shall be in accordance with the A.A.C. R14-3-
28 105, except that all motions to intervene must be filed on or before **February 13, 2009**.

IT IS FURTHER ORDERED that the Company shall file as a late-filed exhibit, copies of
correspondence from property owners to the Company requesting water service from Wayward
Winds, on or before **February 4, 2009**.

IT IS FURTHER ORDERED that Staff shall file a late-filed exhibit indentifying the legal
authority underlying Staff's testimony that a franchise agreement is not necessary for this CC&N, on
or before **February 4, 2009**.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
Communications) applies to this proceeding as the matter is now set for public hearing.

IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

1 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
2 of the Arizona Supreme Court and A.R.S. §40-243 with respect to practice of law and admission *pro*
3 *hac vice*.

4 IT IS FURTHER ORDERED that the timeclock in this matter is suspended pursuant to
5 A.A.C. R-14-2-411(C)(8).

6 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
7 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

8 DATED this 23rd day of January, 2009.

9
10 
11 BELINDA A. MARTIN
12 ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed
14 this 23rd day of January, 2009 to:

15 N. D. Bales
16 WAYWARD WINDS
17 5416 East Highway 181
Pearce, Arizona 85625

18 Janice Alward, Chief Counsel
19 Legal Division
20 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

21 Ernest Johnson, Director
22 Utilities Division
23 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

24 By:

25 
26 Jenny Gomez
27 Secretary to Belinda A. Martin
28